

UNITED STATES DISTRICT COURT

for the

FILED - GR
 December 17, 2024 1:02 PM
 CLERK OF COURT
 U.S. DISTRICT COURT
 WESTERN DISTRICT OF MICHIGAN
 BY: KB SCANNED BY: KB 12/17

KURTIS JAMES VANDERMOLLEN
Petitioner

v.

Case No. _____
 (Supplied by)

1:24-cv-1323

Robert J. Jonker
 U.S. District Judge

GAYLE HORN

Respondent

(name of warden or authorized person having custody of petitioner)

DIRECTOR, COMMUNITY ALTERNATIVE PROGRAM

EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: KURTIS JAMES VANDERMOLLEN
 (b) Other names you have used: n/a
2. Place of confinement:
 (a) Name of institution: COMMUNITY ALTERNATIVE PROGRAM
 (b) Address: 801 COLLEGE AVE SE
GRAND RAPIDS MI 49507
 (c) Your identification number: 36317510
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: _____
 (b) Docket number of criminal case: _____
 (c) Date of sentencing: _____
☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: WESTERN DISTRICT OF MICHIGAN, UNITED STATES DISTRICT COURT FOR THE SIXTH CIRCUIT
- (b) Docket number, case number, or opinion number: 1:22-CR-00171
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
BOP FAILURE TO ^{EARNED TIME} CREDIT NOVEMBER, 2024 EARNED TIME CREDIT OF FIFTEEN (15) DAYS, EFFECTIVELY FALSELY IMPRISONING PETITIONER SINCE DECEMBER 6, 2024; AND BOP DISALLOWING PASS TO FILE IN PERSON
- (d) Date of the decision or action: DECEMBER 6, 2024 SINCE DECEMBER 6, 2024

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) If you answered "No," explain why you did not appeal: UNDER HUIHUI V. DERR (U.S. DIST. CT. HI DISTRICT) FOUND THAT "ADMINISTRATIVE REMEDIES WOULD BE FUTILE" AND EXCUSED "PETITIONER'S FAILURE TO EXHAUST" FOR SIMILAR REASONS AS IN THIS CASE, TO WIT: (1) NO AVAILABLE REMEDY EXISTS; (2) DIRECTOR REFUSES TO PROVIDE PASSES TO RESOLVE LEGAL PURSUIT OF MATTER.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

ALSO, LAING V ASHCROFT, 370 F.3d 994, 1000 (9TH CIR 2004): (1) REMEDIES "INADEQUATE OR NOT EFFICACIOUS", "FUTILE GESTURE", OR "IRREPARABLE INJURY WILL RESULT"

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If “Yes,” answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: BOP FAILED TO CREDIT NOVEMBER 2024 10 U.S.C. 3632(d)(4) and SECTION 101 OF THE FIRST STEP ACT OF 2018, RESULTING IN FALSE IMPRISONMENT EFFECTIVE DECEMBER 6, 2024. THE OCTOBER 2024 FIFTEEN (15) DAY CREDIT WAS APPLIED REDUCING SENTENCE RELEASE TO DECEMBER 23, 2024 ON BOP WEBSITE.

(a) Supporting facts (Be brief. Do not cite cases or law.):

BOP BEGAN CREDITING FEA EARNED TIME CREDIT ON JULY 13, 2023 (ACCORDING TO HUI HUI V. DERR US DIST CT HI 2022: 'INCORRECTLY' AS IT SHOULD HAVE BEEN COMMENCED ON JUNE 5, 2023) AND CONTINUED THROUGH OCTOBER 2024 FIFTEEN (15) DAY CREDIT REDUCING SENTENCE RELEASE TO DECEMBER 23, 2024 PER BOP WEBSITE. FAILURE TO CREDIT FIFTEEN (15) DAYS FOR NOVEMBER, 2024 HAS

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

RESULTED IN FALSE IMPRISONMENT EFFECTIVE DECEMBER 6, (FRIDAY V.

GROUND TWO: DIRECTOR HORN HAS REPEATEDLY FAILED TO EITHER PROVIDE A REMEDY PROCESS UPON KNOWLEDGE OF THIS MATTER, AS WELL AS FAILING TO APPROVE A PASS ON FRIDAY, DECEMBER 6, 2024, MONDAY, DECEMBER 9, 2024, TUESDAY, DECEMBER 10, 2024, AND FAILING TO FOLLOW UP WEDNESDAY, DECEMBER 11, 2024, AND THURSDAY, DECEMBER 12, 2024.

(a) Supporting facts (Be brief. Do not cite cases or law.):

PETITIONER SOUGHT A PASS TO BE APPROVED TO U.S. DISTRICT COURT AND AGAIN ON DECEMBER 9 AND 10. MSGR. JAGAH INDICATED THAT DIRECTOR HORN WAS NOT APPROVING AND INDICATED HE WOULD FOLLOW UP WITH PETITIONER ON DECEMBER 11. NO APPROVALS OR FOLLOWUPS HAVE OCCURRED SINCE.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: RELEASE IMMEDIATELY BY WAY OF ORDER
GRANTING WRIT OF HABEAS CORPUS AND ANY FURTHER RELIEF
THE COURT DEEMS IN THIS MATTER.

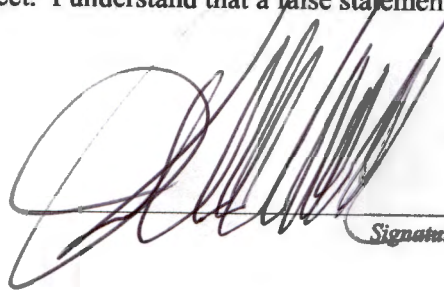
AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12/12/2024



Signature of Petitioner

Signature of Attorney or other authorized person, if any

KURTIS JAMES VANDER MOLEN #36317
801 COLLEGE AVE SE
GRAND RAPIDS MI 49507

CLERK
399 F
110 M
GRAND

570

Retail



49503

RDC 99

U.S. POSTAGE PAID
FCM LG ENV
ROCKFORD, MI 49341
DEC 14, 2024

\$2.04

S2324P501281-5

U.S. DISTRICT COURT
FEDERAL BLDG.
CHIGAN ST. NW
RAPIDS MI 49503

